

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Ricardo Sanchez Hooks,

Plaintiff,

v.

SCDC Mental Health Program; Eileen
Delany; Richard Frierson; Beverly Woods;
James Blake Gordon; Jim Pager; Kanisha
Miller; Ralph C. Pollock, in their official
capacity and individually,

Defendants.

Civil Action No.: 2:12-cv-0305-RMG

ORDER

In this case, Plaintiff, who is a state prisoner proceeding *pro se*, seeks relief pursuant to 42 U.S.C. § 1983. Pursuant to the provisions of 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) DSC, this case was automatically referred to the United States Magistrate Judge for all pretrial proceedings. On February 14, 2012, the Magistrate Judge issued a Report and Recommendation recommending that the Court dismiss Plaintiff's Complaint as to Defendant SCDC Mental Health Program based on this Defendant's immunity from suit under the Eleventh Amendment. (Dkt. No. 10). The Magistrate Judge instructed Plaintiff of the deadline for filing objections to the Report and Recommendation and the serious consequences for failing to do so. (*Id.* at 5). Notwithstanding these instructions, Plaintiff did not file any objections to the Report and Recommendation. As explained herein, the Court agrees with and wholly adopts the Report and Recommendation of the Magistrate Judge and dismisses Plaintiff's Complaint as to Defendant SCDC Mental Health Program without prejudice and without service of process.

Law/Analysis

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.* Where, as in this case, the Plaintiff fails to file any specific objections, the Magistrate Judge’s conclusions are reviewed only for clear error, *see Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

Upon reviewing the record, this Court agrees with, and wholly adopts, the findings and recommendations of the Magistrate Judge. As the Magistrate Judge explained in the Report and Recommendation, the South Carolina Department of Corrections and its Mental Health Program are immune from suit under the Eleventh Amendment. Thus, Plaintiff’s Complaint is dismissed as to Defendant SCDC Mental Health Program without prejudice and without service of process.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

March 20, 2012
Charleston, South Carolina